

CHAPTER 20
MANUFACTURED HOUSING LICENSING AND TRANSACTION RECOVERY FUND
REGULATIONS

13 VAC 6-20-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Board" means the Virginia Manufactured Housing Board.

"Buyer" means the person who purchases at retail from a dealer or manufacturer a manufactured home for personal use as a residence or other related use.

"Claimant" means any person who has filed a verified claim under Chapter 4.2 (§§ 36-85.16 et seq.) of Title 36 of the Code of Virginia.

"Code" means the appropriate standards of the Virginia Uniform Statewide Building Code and the ~~Industrialized Building and~~ Manufactured Home Safety Regulations adopted by the Board of Housing and Community Development and administered by the Department of Housing and Community Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 for manufactured homes.

"Dealer/manufacture sales agreement" means a written contract or agreement between a manufactured housing manufacturer and a manufactured housing dealer whereby the dealer is granted the right to engage in the business of offering, selling, and servicing new manufactured homes of a particular line or make of the stated manufacturer of such line or make. The term shall include any severable part or parts of such sales agreement which separately provides for selling or servicing different lines or makes of the manufacturer.

"Defect" means any deficiency in or damage to materials or workmanship occurring in a manufactured home which has been reasonably maintained and cared for in normal use. The term also means any failure of any structural element, utility system or the inclusion of a component part of the manufactured home which fails to comply with the Code.

"Department" means the Department of Housing and Community Development.

"Director" means the Director of the Department of Housing and Community Development, or his designee.

"Fund" or "recovery fund" means the Virginia Manufactured Housing Transaction Recovery Fund.

"HUD" means the United States Department of Housing and Urban Development.

"Licensed" means the regulant has met all applicable requirements of this chapter, paid all required fees, and been authorized by the board to manufacture or offer for sale or sell manufactured homes in accordance with this chapter.

"Manufactured home" means a structure constructed to federal standards, transportable in one or more sections, which, in the traveling mode is eight feet or more in width and is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Manufactured home broker" or "broker" means any person, partnership, association or corporation, resident or nonresident, who, for compensation or valuable consideration, sells or offers for sale, buys or offers to buy, negotiates the purchase or sale or exchange, or leases or offers to lease used manufactured homes that are owned by a party other than the broker.

"Manufactured home dealer" or "dealer" means any person engaged in the business of buying, selling or dealing in manufactured homes or offering or displaying manufactured homes for sale in Virginia. Any person who buys, sells, or deals in three or more manufactured homes in any 12-month period shall be presumed to be a manufactured home dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "manufactured home dealer" does not include banks and finance companies that acquire manufactured homes as an incident to their regular business.

"Manufactured home manufacturer" or "manufacturer" means any persons, resident or nonresident, who manufacture or assemble manufactured homes for sale in Virginia.

"Manufactured home salesperson" or "salesperson" means any person who for compensation or valuable consideration is employed either directly or indirectly by, or affiliated as an independent contractor with, a manufactured home dealer to sell or offer to sell; or to buy or offer to buy; or to negotiate the purchase, sale or exchange; or to lease or offer to lease new or used manufactured homes.

"New manufactured home" means any manufactured home ~~which~~ that (i) has not been previously sold except in good faith for the purpose of resale, (ii) has not been previously occupied as a place of habitation, (iii) has not been previously used for commercial purposes such as offices or storage, and (iv) has not been titled by the Virginia Department of Motor Vehicles and is still in the possession of the original dealer. If the home is later sold to another dealer and then sold to a consumer within two years of the date of manufacture, the home is still considered new and must continue to meet all state warranty requirements. However, if a home is sold from the original dealer to another dealer and it is more than two years after the date of manufacture, and it is then sold to a consumer, the home must be sold as "used" for warranty purposes. Notice of the "used" status of the manufactured home and how this status affects state warranty requirements must be provided, in writing, to the consumer prior to the closing of the sale.

"Person" means any individual, natural person, firm, partnership, association, corporation, legal representative, or other recognized legal entity.

"Regulant" means any person, firm, corporation, association, partnership, joint venture, or any other legal entity required by Chapter 4.2 (§§36-85.16 et seq.) of Title 36 of the Code of Virginia to be licensed by the board.

"Regulations" or "these regulations" means the Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

"Relevant market area" means the geographical area established in the dealer/manufacturer sales agreement and agreed to by both the dealer and the manufacturer in the agreement.

"Responsible party" means a manufacturer, dealer, or supplier of manufactured homes.

"Set-up" means the operations performed at the occupancy site which render a manufactured home fit for habitation. Such operations include, but are not limited to, transportation, positioning, blocking, leveling, supporting, anchoring, connecting utility systems, making minor adjustments, or assembling multiple or expandable units. Such operations do not include lawful transportation services performed by public utilities operating under certificates or permits issued by the State Corporation Commission.

"Standards" means the Federal Manufactured Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development.

"Statement of Compliance" means the statement that the regulant licensed by the board will comply with the Manufactured Housing Licensing and Transaction Recovery Fund Law, this chapter and the orders of the board.

"Supplier" means the original producers of completed components, including refrigerators, stoves, water heaters, dishwashers, cabinets, air conditioners, heating units, and similar components, and materials such as floor coverings, panelling, siding, trusses, and similar materials, which are furnished to a manufacturer or a dealer for installation in the manufactured home prior to sale to a buyer.

"Used manufactured home" means any manufactured home other than a new home as defined in this section.

"Warranty" means any written assurance of the manufacturer, dealer or supplier or any promise made by a regulant in connection with the sale of a manufactured home that becomes part of the basis of the sale. The term "warranty" pertains to the obligations of the regulant in relation to materials, workmanship, and fitness of a manufactured home for ordinary and reasonable use of the home for the term of the promise or assurance.

Part II Licenses

Article 1 Manufacturers

13 VAC 6-20-20. License required; annual renewal.

A. Each manufacturer located in or outside of the Commonwealth delivering in or shipping into the Commonwealth manufactured homes for sale, shall apply to the board for a license. The

license shall be displayed at the place of business. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed manufacturer shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for the new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of this chapter were in compliance with the requirements of this chapter. Upon application and payment of the renewal fee and any penalty by a manufacturer, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a manufacturer in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under this chapter.

D. For licensing purposes, a manufacturer operating more than one manufacturing facility shall have each location treated as a separate entity and shall adhere to all requirements for manufacturer licensing at each location. Multiple production lines at one site shall be considered as a single facility for licensing purposes under the following conditions:

1. All production lines at that site are identified by the parent company with the same name, address and plant number.
2. All production lines at that site are under the same general and production management.
3. All production lines at that site are identified by the same Federal Identification Number (FIN) for tax purposes.

13 VAC 6-20-30. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by 13 VAC 6-20-420 A 1.
2. Licensing fee required by 13 VAC 6-20-200 A 1.
3. Copy of the manufacturer's homeowner and installation manual or manuals.

4. Statement of Compliance.

5. List of salespeople licensed in Virginia with the following biographical information for each:

Date of birth

Sex

Weight

Height

Eye/hair color

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by 13 VAC 6-20-200 A 2.

2. If revised, a copy of the revised homeowner and installation manual or manuals.

3. Statement of Compliance.

4. Updated list of salespeople employed.

13 VAC 6-20-40. Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit his firm to the conditions of compliance and shall not be transferable.

Violation of the Statement of Compliance is ground for suspension of the license.

Article 2 Dealers

13 VAC 6-20-50. License required; annual renewal.

A. Any person located in or outside of the Commonwealth buying or selling or offering or displaying manufactured homes for sale in Virginia and meeting the definition of a dealer in 13 VAC 6-20-10 shall apply to the board for a license. The license shall be displayed to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed dealer shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year

from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of this chapter were in compliance with the requirements of this chapter. Upon application and payment of the renewal fee and any penalty by a dealer, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a dealer in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under this chapter.

D. For licensing purposes, a dealer operating more than one retail location shall have each location treated as a separate entity and shall adhere to all requirements for dealer licensing at each location.

E. Each dealer licensed under this chapter shall also obtain a certificate of dealer registration from the Virginia Department of Motor Vehicles. The certificate of registration shall be renewed annually and shall be maintained in effect with the Department of Motor Vehicles as long as the dealer is licensed under this chapter.

13 VAC 6-20-60. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by 13 VAC 6-20-420 A 2.
2. Licensing fee required by 13 VAC 6-20-200 A 3.
3. Statement of Compliance.
4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.
5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm.
6. List of salespeople employed with the following biographical information for each:

Date of Birth

Sex

Weight

Height

Eye/hair color

7. Name of the owner, principal, manager, agent or other person designated as the holder of the dealer's license for the specific location and the names of other partners or principals in the dealership.

Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by 13 VAC 6-20-200 A 4.
2. Statement of Compliance.
3. Notification of any significant changes to the office or the business sign.
4. Updated list of salespeople employed.
5. Any changes of officers or directors of the company or corporation.
6. A copy of the dealer's current certificate of registration from the Department of Motor Vehicles.

D. Any change in the form of ownership of the dealer or any changes (deletions or additions) in the partners or principals of the dealer shall be submitted to the board with an application and fee for a new license. If the new owner or owners assume the liabilities of the previous owner or owners, then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new owner or owners do not assume the liabilities of the previous owner or owners. The board shall be notified immediately by the dealer of any change in the operating name of the dealer. The director shall endorse the change on the license without requiring an additional fee. The board shall be notified immediately by the dealer of any change in the location of the dealer. The dealer shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

13 VAC 6-20-70. Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit the dealer to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

13 VAC 6-20-80. Dealer responsibility for inspections; other items.

A. The dealer shall inspect every new manufactured home unit upon delivery from a manufacturer. If a dealer becomes aware of a noncompliance or an imminent safety hazard, as

defined in ~~Section 1200.2~~ 13 VAC 5-95-10 of the ~~Industrialized Building and~~ Manufactured Home Safety Regulations, in a manufactured home, the dealer shall contact the manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer. No dealer shall sell a new manufactured home if he becomes aware that it contains a noncompliance or an imminent safety hazard.

B. The dealer shall inspect every new manufactured home unit prior to selling to determine that all items of furniture, appliances, fixtures and devices are not damaged and are in place and operable.

C. A dealer shall not alter or cause to be altered any manufactured home to which a HUD label has been affixed if such alteration or conversion causes the manufactured home to be in violation of the standards.

D. If the dealer provides for the installation of any manufactured home he sells, the dealer shall be responsible for making sure the installation of the home meets the manufacturer's installation requirements and the Code.

E. On each home sold by the dealer, the dealer shall collect the applicable title fees and title tax for the manufactured home and forward such fees and taxes to the Virginia Department of Motor Vehicles.

Article 3 Brokers

13 VAC 6-20-90. License required; annual renewal.

A. Any person located in or outside of the Commonwealth buying or selling, negotiating the purchase or sale or exchange of, or leasing used manufactured homes and meeting the definition of broker in 13 VAC 6-20-10 shall apply to the board for a license. The license shall be displayed to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed broker shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of this chapter were in compliance with the requirements of this chapter. Upon application and payment of the renewal fee and any penalty by a broker, the board may review

an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a broker in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under this chapter.

D. For licensing purposes, a broker operating more than one business location shall have each location treated as a separate entity and shall adhere to all requirements for broker licensing at each location.

E. Each broker licensed under this chapter shall also obtain a certificate of dealer registration from the Virginia Department of Motor Vehicles. The certificate of registration shall be renewed annually and shall be maintained in effect with the Department of Motor Vehicles as long as the broker is licensed under this chapter.

13 VAC 6-20-100. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by 13 VAC 6-20-420 A 3.
2. Licensing fee required by 13 VAC 6-20-200 A 5.
3. Statement of Compliance.
4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.
5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm.
6. Name of the owner, principal, manager, agent or other person designated as the holder of the broker's license for the specific location and the names of the partners or principals in the broker's firm.
7. List of salespeople employed with the following biographical information for each:

Date of birth

Sex

Weight

Height

Eye/hair color

Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by 13 VAC 6-20-200 A 6.
2. Statement of Compliance.
3. Notification of any significant changes to the office or the business sign.
4. Any changes of officers or directors of the company or corporation.
5. A copy of the broker's current certificate of registration from the Department of Motor Vehicles.
6. Updated list of salespeople employed.

D. Any change in the form of ownership of the broker or any changes (deletions or additions) in the partners or principals of the broker shall be submitted to the board with an application and fee for a new license. If the new owner(s) assume the liabilities of the previous owner(s), then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new owner(s) do not assume the liabilities of the previous owner(s).

The board shall be notified immediately by the broker of any change in the operating name of the broker. The director shall endorse the change on the license without requiring an additional fee. The board shall be notified immediately by the broker of any change in location of the broker. The broker shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

13 VAC 6-20-110. Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit the broker to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

13 VAC 6-20-120. Broker responsibility for inspections; other items.

A. The broker shall inspect every used manufactured home unit prior to completion of sale. No broker shall sell a used manufactured home, if he becomes aware that it contains an imminent safety hazard as defined in ~~Section 1200.2~~ 13 VAC 5-95-10 of the ~~Industrialized Building and~~ Manufactured Home Safety Regulations.

Exception: A broker may sell a used manufactured home in which he is aware of an imminent safety hazard if the buyer is advised of the imminent safety hazard in writing by the broker and is further advised that building permits may be required from the local building official for repair of the imminent safety hazard.

B. A broker shall not alter or cause to be altered any manufactured home to which a HUD label has been affixed if such alteration or conversion causes the manufactured home to be in violation of the standards.

C. If the broker provides for the installation of any manufactured home he sells, the broker shall be responsible for making sure the installation of the home meets the manufacturer's installation requirements and the Code.

D. On each home sold by the broker, the broker shall collect the applicable title tax and title fees for the manufactured home and forward such fees and taxes to the Virginia Department of Motor Vehicles.

Article 4 Salespeople

13 VAC 6-20-130. License required; annual renewal.

A. Any person employed by a dealer, broker or manufacturer buying or selling or negotiating the purchase, sale or exchange of new or used manufactured homes and meeting the definition of a salesperson in 13 VAC 6-20-10 shall apply to the board for a license. The salesperson's license shall be displayed in the company's business office in public view. The license shall be issued for a term of one year from the date of issuance. A salesperson shall be allowed to engage in business as a licensed salesperson after applying for a license, but prior to receiving the license back from the board.

B. Each licensed salesperson shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of this chapter were in compliance with the requirements of this chapter. Upon application and payment of the renewal fee and any penalty by a salesperson, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a salesperson in Virginia after expiration of the license and prior to application for renewal or agrees to the conditions imposed by the board, and is otherwise eligible for a license under this chapter.

D. When employed by a dealer, broker or manufacturer having more than one licensed retail location or business office, a licensed salesperson may transfer or be temporarily assigned from one location to the other as long as he is working for the same company under the same

ownership. Such transfer or assignment shall not require an additional license or Transaction Recovery Fund assessment. If a salesperson works for more than one company or at locations with different owners, he shall be licensed separately for each and pay a separate Transaction Recovery Fund assessment for each such license.

13 VAC 6-20-140. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be supplied by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by 13 VAC 6-20-420 A 4.
2. Licensing fee required by 13 VAC 6-20-200 A 7.
3. Statement of Compliance.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by 13 VAC 6-20-200 A 8.
2. Statement of Compliance.

13 VAC 6-20-150. Termination of employment; notification to department.

Whenever the salesperson's employment is terminated, the salesperson shall immediately send his license to the department. The license shall be marked "Employment terminated on Date" with the date given that the salesperson stopped working for the dealer, broker or manufacturer. The dealer, broker or manufacturer also shall notify the department of the salesperson's termination of employment no later than the tenth day of the month following the month of termination.

Article 5 Special License

13 VAC 6-20-160. Special license; applications; fees.

A. The board may approve applications from regulants for special licenses, not to exceed 10 days in duration, for a temporary place of business operated or proposed by the regulant. The temporary location shall not be contiguous to other premises for which a license is issued, except that contiguous locations may be licensed for dealer and manufacturer product shows.

B. The application for special licenses shall be submitted on forms supplied by the department. All information required with the application shall be furnished by the applicant for the board's review. Applications shall be submitted to the board at least 30 days prior to the requested effective date of the special license.

C. The application shall be accompanied by the required fee in 13 VAC 6-20-200 B.

Article 6

Violations and Hearings

13 VAC 6-20-170. Prohibited conduct; grounds for denying, suspending or revoking license.

A. The following acts by regulants are prohibited and may be considered by the board as grounds for action against the regulant:

1. Engaging in business as a manufactured home manufacturer, dealer or broker without first obtaining a license from the board.
2. Engaging in business as a manufactured home salesperson without first applying to the board for a license.
3. Making a material misstatement in an application for license.
4. Failing to pay a required assessment to the Transaction Recovery Fund.
5. Failing to comply with the warranty service obligations and claims procedures required by this chapter.
6. Failing to comply with the set-up and tie-down requirements of the Code.
7. Knowingly failing or refusing to account for or pay over money or other valuables belonging to others which have come into the regulant's possession due to the sale of a manufactured home.
8. Using unfair methods of competition or unfair or deceptive commercial acts or practices.
9. Failing to comply with the advertising provisions in Part IV of this chapter (13 VAC 6-20-270 et seq.).
10. Defrauding any buyer to the buyer's damage, and any other person in the conduct of the regulant's business.
11. Employing an unlicensed salesperson.
12. Knowingly offering for sale a manufactured home produced by a manufacturer which is not licensed as a manufacturer under this chapter.
13. Knowingly selling a manufactured home to a dealer who is not licensed as a dealer under this chapter.
14. Failing to appear before the board upon due notice.
15. Failing to comply with orders issued by the board pursuant to this chapter.

16. Failing to renew a license and continuing to engage in business as a manufacturer, dealer, broker or salesperson after the expiration of any license.

17. A salesperson selling, exchanging or offering to sell or exchange a manufactured home for any dealer or broker other than the licensed dealer or broker employing the salesperson.

18. A salesperson offering, transferring or assigning any negotiated sale or exchange of a manufactured home to another dealer, broker, manufacturer or salesperson.

19. Failing to comply with the Statement of Compliance.

20. Failing to notify the board of a change of location or address of the business office.

21. Failing to comply with any provisions of this chapter.

22. Failing to comply with the regulations of state or federal agencies regarding the financing, titling, taxation or transporting of manufactured homes.

B. The board may deny, suspend, revoke or refuse to renew the license of a regulant because of, but not limited to, one or more of the following grounds:

1. Having had a license previously denied, revoked or suspended under this chapter.

2. Having a license denied, suspended or revoked by a similar licensing entity in another state.

3. Engaging in conduct in another state which would have been a violation of this chapter if the actions were committed in Virginia.

4. Failing to obtain a required certification of registration from the Department of Motor Vehicles, failing to renew the annual certificate of registration, or having the certificate of registration suspended or revoked by the Department of Motor Vehicles.

5. Having been convicted or found guilty in any jurisdiction of a felony.

13 VAC 6-20-180. Penalties; notice to regulant.

A. The board shall have the power to deny, suspend, revoke or refuse to renew the license of a regulant found to be engaging in prohibited conduct or otherwise failing to comply with this chapter or orders of the board.

B. The board shall have the authority to levy assessments in addition to or instead of denying, suspending, revoking or refusing to renew a regulant's license. Such assessments shall include the following:

1. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a manufacturer.

2. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a dealer or broker.

3. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a salesperson.

C. The board shall notify the regulant, in writing, of any complaint directed against him. The notice shall include the time and place of a conference or hearing on the complaint. No penalties shall be imposed by the board until after the conference or hearing.\

13 VAC 6-20-190. Conference; hearing; service of notice.

A. The board, or department acting on the board's behalf, shall send notice of the conference or hearing to the regulant at least 15 calendar days prior to the date of the conference or hearing. The notice shall be sent by certified mail to the address of the regulant, as shown on the license or other record of information in possession of the board.

B. The conference or hearing shall be conducted by the board according to the applicable provision of the Administrative Process Act and shall be open to the public. The regulant or applicant shall have the right to be heard in person or by counsel, and to provide evidence and witnesses on his behalf.

C. After the conference or hearing has been completed, if the board determines that the regulant or applicant has engaged in prohibited conduct, or is in violation of this chapter or orders of the board, or otherwise determines that it has grounds to impose any penalties under 13 VAC 6-20-180, the board shall immediately notify the regulant or applicant in writing, by certified mail, of the action imposed by the board. The department shall be responsible for carrying out the board's decision. The department shall also notify the Department of Motor Vehicles of the suspension or revocation of any dealer's or broker's license under this chapter.

D. The decision of the board shall be final if no appeal is made. An appeal from the decision of the board may be filed with a court in accordance with the Administrative Process Act.

Article 7 License Fees

13 VAC 6-20-200. Fee schedules.

A. The following fees are set by the board for annual licenses and renewals issued in accordance with this chapter.

1. The manufacturer's original license fee shall be \$600.

2. The manufacturer's renewal license fee shall be \$500.

3. The dealer's original license fee shall be \$150 to be submitted with the application for licensure plus \$10 per home sold by the dealer to be submitted at the completion of the sale.

4. The dealer's renewal license fee shall be \$100 to be submitted with the application for renewal plus \$10 per home sold by the dealer to be submitted at the completion of the sale.

5. The broker's original license fee shall be \$150 to be submitted with the application for licensure plus \$10 per home sold by the broker to be submitted at the completion of the sale.

6. The broker's renewal license fee shall be \$100 to be submitted with the application for renewal plus \$10 per home sold by the broker to be submitted at the completion of the sale.

7. The salesperson's original license fee shall be \$50.

8. The salesperson's renewal license fee shall be \$50.

B. The following fees apply to special licenses issued by the board in accordance with Article 5 of this part of this chapter:

1. Manufacturer's special license fee shall be \$25.

2. Dealer's special license fee shall be \$25.

3. Broker's special license fee shall be \$25.

4. Salesperson's special license fee shall be \$10.

Part III Dealer or Manufacturer Sales Agreements

13 VAC 6-20-210. Filing of dealer or manufacturer sales agreements; contents.

A. Each licensed manufacturer shall file with the board a true copy of each new, amended, modified, or different form of dealer/manufacturer sales agreement to be offered to a dealer or prospective dealer in the Commonwealth prior to the date the sales agreement is offered. The department shall review the form for terms inconsistent with the requirements of this chapter. Any forms found to contain inconsistent terms shall be reported to the board for review and notification. The department shall notify the manufacturer of the inconsistent terms and its report to the board.

B. The sales agreement between the manufacturer and the dealer shall not include terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of this chapter.

C. The manufacturer shall include in any sales agreement with a dealer the following language or words to that effect:

"If any provision herein contravenes the laws or regulations of Virginia, or denies access to the procedures, hearings, or remedies provided by the laws or regulations of Virginia, such provision shall be deemed to be modified to conform to those laws and regulations, and all other terms and provisions of the agreement shall remain in full force."

13 VAC 6-20-220. Coercion of dealer by manufacturer prohibited.

A. A manufacturer shall not coerce or attempt to coerce any dealer or prospective dealer to sell, assign, or transfer any sales contract obtained by the dealer for any manufactured home produced by the manufacturer, to a specified finance company or class of finance companies or to any other specified persons by any of the following:

1. By any statement, suggestion, promise or threat that the manufacturer will in any manner benefit or injure the dealer, whether the statement, suggestion, threat, or promise is express or implied or made directly or indirectly.
2. By any act that will benefit or injure the dealer.
3. By any contract, or any express or implied offer of contract, made directly or indirectly to the dealer, for handling the manufactured home on the condition that the dealer sell, assign, or transfer his sales contract on the manufactured home to a specified finance company or class of finance companies or to any other specified persons.
4. By any express or implied statement or representation made directly or indirectly that the dealer is under any obligation to sell, assign, or transfer any of his sales contracts because of any relationship or affiliation between the manufacturer and the finance company or persons.

B. A manufacturer shall not coerce or attempt to coerce any dealer to accept delivery of any manufactured home or homes, parts or accessories which have not been ordered by the dealer.

C. A manufacturer shall not coerce or attempt to coerce any dealer to enter into an agreement with the manufacturer, or do any other act unfair to the dealer, by threatening to cancel any sales agreement existing between the manufacturer and the dealer.

D. A manufacturer shall not coerce or attempt to coerce any dealer to join, contribute to, or affiliate with any advertising association.

E. A manufacturer shall not require or otherwise coerce a dealer to underutilize a dealer's facilities.

13 VAC 6-20-230. Grant, transfer, succession to and cancellation of dealer or manufacturer sales agreements: delivery of homes, parts, accessories.

A. Prior to granting an additional dealer or manufacturer sales agreement for a particular line of manufactured home in a relevant market area in which a dealer or dealers are already located, a manufacturer shall notify, in writing, all other dealers in the line of homes in that relevant market area. Any dealer in the same line of homes in the relevant marketing area may request a conference or hearing before the board within 30 days of receipt of the manufacturer's notice of intention to establish the additional dealer or manufacturer sales agreement. The additional sales agreement may be established at the proposed site if, after the conference or hearing, the board determines that there is reasonable evidence that after the grant of the new sales agreement, the market will support all of the dealers in that line of homes in the relevant market area.

Establishing a dealer or manufacturer sales agreement in a relevant market area to replace a dealer that has ceased operation shall constitute the establishment of a new dealer or manufacturer sales agreement subject to the terms of this section.

EXCEPTIONS:

1. The relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more than 25 miles from any other dealer in the same line of homes.
2. The relocation of an existing dealer within that dealer's relevant market area if the relocation site will be further away from all other dealers of the same line of homes in that relevant market area than the relocating dealer's current site.
3. The relocation of an existing dealer within two miles of that dealer's current site.

B. A dealer shall give written notice to the manufacturer at least 90 days prior to the sale, assignment, or transfer of the dealer or manufacturer sales agreement. The notice shall include the identity, financial ability, and qualifications of the proposed transferee. The sale or transfer of the sales agreement or business shall not involve a relocation of the sales agreement without the manufacturer's consent. The manufacturer shall not prevent or refuse to approve the sale or transfer of the ownership of a dealer by the sale of the business, stock transfer, or otherwise, or the sale, transfer, or assignment of a dealer or manufacturer sales agreement or a change in the executive management or principal operator of the dealership, unless the manufacturer provides written notice to the dealer of its objections and the reasons therefor at least 30 days prior to the proposed effective date of the sale, transfer, assignment, or change. The dealer shall have 30 days from receipt of the manufacturer's objection to file a written request for a conference or hearing by the board. At the conference or hearing, the manufacturer and the dealer shall be allowed to present their reasons for and objections to the sale or transfer. The board shall determine whether the manufacturer's objection to the sale, assignment, transfer or change of the dealership is reasonable or unreasonable. The sale, transfer, assignment or change of the dealer or manufacturer sales agreement shall be allowed if the board determines the objection is unreasonable.

C. A dealer shall be allowed to designate a member of his family as a successor to the dealer or manufacturer sales agreement in the event of the death or incapacity of the dealer by providing written notice to the manufacturer of the identity, financial ability, and qualifications of the member of the family designated as successor. The manufacturer shall have the right to prevent or refuse to honor the succession to the sales agreement by notifying the family member in writing of its objections and of the person's right to request a conference or hearing on the matter before the board. The dealer shall have 30 days from receipt of the manufacturer's notice to file a written request to the board for a conference or hearing. At the conference or hearing, the dealer and manufacturer shall be allowed to present their reasons for and objections to the succession. The board shall determine if the manufacturer's objection to the succession is reasonable. The designated succession shall be allowed if the board determines the manufacturer's objection is unreasonable.

D. A dealer or manufacturer sales agreement may be cancelled or terminated at any time by mutual consent.

E. A manufacturer may terminate, cancel, or refuse to renew the sales agreement of a dealer with good cause. At least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the sales agreement the manufacturer shall give written notice of his intentions to the dealer and the board, setting forth the specific grounds for the action. Within the 60-day period, the dealer may request, in writing, a conference or hearing before the board to determine if there is good cause for the termination, cancellation, or nonrenewal of the sales agreement. When the dealer has requested a board conference or hearing, the sales agreement in question shall continue in effect until the board issues a finding of good cause for the action.

If a manufacturer neither advises a dealer that it does not intend to renew a sales agreement nor takes any action to renew a sales agreement beyond its expiration date, the sales agreement in question shall continue in effect on the terms last agreed to by the parties.

A manufacturer may provide written notice of termination, cancellation or nonrenewal to a dealer not less than 15 days prior to the effective date of such termination, cancellation or nonrenewal when the grounds for such action are any of the following:

1. Insolvency of the dealer or filing of any petition by or against the dealer, under any bankruptcy or receivership law, leading to liquidation or which is intended to lead to liquidation of the dealer's business.
2. Failure of the dealer to conduct its customary sales and service operations during its established business hours for 10 consecutive business days, except where the failure results from acts of God or circumstances beyond the direct control of the dealer.
3. Revocation of any license which the dealer is required to have to operate a dealership.
4. Conviction of the dealer or any principal of the dealer of a felony, during the term of the sales agreement.

F. The change or discontinuance of a marketing or distribution system of a particular line of manufactured homes by a manufacturer, while the name identification of the home is continued in substantial form by the same or different manufacturer, may be considered to be a sales agreement termination, cancellation, or nonrenewal. A manufacturer shall provide continued parts and service support to a dealer for a discontinued line of homes for at least five years from the date of such discontinuance.

13 VAC 6-20-240. Dealer or manufacturer sales agreement warranties.

Any warranty agreements or contracts included in the sales agreement shall comply with the warranty and service requirements of Part V of this chapter (13 VAC 6-20-310 et seq.).

13 VAC 6-20-250. Operation of dealership by manufacturer.

A manufacturer shall not own, operate or control a dealership in the Commonwealth except under the following conditions:

1. A manufacturer may operate a dealership for a temporary period, not to exceed one year, during the transition from one owner or operator to another;
2. A manufacturer may own or control a dealership while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or
3. A manufacturer may own, operate, or control a dealership if the board determines, after a conference or hearing at the request of any party, that there is no dealer independent of the manufacturer available in the relevant market area to own and operate the dealer or manufacturer sales agreement in a manner consistent with the public interest.

13 VAC 6-20-260. Conferences, hearings and other remedies.

A. In every case of a conference or hearing before the board authorized by this chapter, the board shall give reasonable notice of each conference or hearing to all interested parties. The board's decision shall be binding on the parties, subject to the rights of judicial review and appeal.

Conferences or hearings before the board under this part shall commence within 90 days of the request for the conference or hearing. The board's decision shall be rendered within 60 days from the conclusion of the conference or hearing.

B. The board shall initiate investigations, conduct conferences or hearings, and determine the rights of parties under this part whenever they are provided sufficient information indicating a possible violation of this part or this chapter.

C. For purposes of any matter brought to the board under 13 VAC 6-20-230 in which the board is to determine whether there is good cause for a proposed action or whether it would be unreasonable under the circumstances, the board shall consider:

1. The volume of the affected dealer's business in the relevant market area;
2. The nature and extent of the dealer's investment in its business;
3. The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;
4. The effect of the proposed action on the community;
5. The extent and quality of the dealer's service under warranties in Part V of this chapter (13 VAC 6-20-310 et seq.).
6. The dealer's performance under the terms of its dealer/manufacturer sales agreement;
7. Other economic and geographical factors reasonably associated with the proposed action; and
8. The recommendations, if any, of the department personnel requested to investigate the matter.

13 VAC 6-20-270. Prohibited practices.

For the purposes of this part and this chapter, the following regulated advertising practices by manufacturers, dealers, brokers, or salespersons are prohibited and shall be considered by the board to be unfair methods of competition or unfair or deceptive commercial acts or practices:

1. Advertising a manufactured home as a "new manufactured home" when the home does not meet all of the requirements for the definition of a new manufactured home in 13VAC6-20-10.
2. Advertising a used manufactured home by misleading or confusing terms rather than "used" or such other term that is clearly understood to mean that the home is used. Once a title has been issued to a purchaser by the Department of Motor Vehicles, the home is considered as a used home and must be advertised as such.
3. Advertising finance charges or other interest rates when there are costs to buy down the charges or rates which are passed on to the buyer, in whole or in part.
4. Advertising terms, conditions and disclosures which are not stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but the disclaimer shall not contradict or change the meaning of the advertised statement.
5. Advertising a "sale" when the expiration date is not clearly and conspicuously stated.
6. Advertising which uses terms such as "at cost," "below cost," or "dollars off cost." Terms such as "invoice price" or "dollars over invoice" may be used, provided the invoice referred to is the manufacturer's original factory invoice which is available for customer inspection upon request.
7. Advertising a policy to match or better a competitor's price when the terms of the offer are not specific and verifiable. Any such advertisement shall fully disclose, as a part of the ad, any material or significant conditions which must be met or the evidence the buyer must present to take advantage of the offer.
8. Advertising which includes "dealer rebates" or "manufacturer's rebate."
9. Advertising any "free" or "at no cost" (or other words to that effect) offers of equipment or accessories in a negotiated sale. No equipment or accessory shall be described as "free" or "at cost" if its cost or any part of its cost is included in the price of the home, or if the home can be purchased for a lesser price without accepting the free offer, or if a purchase is required in order to receive the free offer.
10. Advertising which is determined to be "bait advertising" such as advertising homes, equipment, accessories or prices which are not available at the dealer's business location, or advertising homes of a specific price but having available for sale only homes equipped with dealer added cost options which increase the selling price above the advertised price. If any home is available only by order, then that shall be clearly and conspicuously disclosed in the advertisement.

11. Advertising as "repossessed" any manufactured home which has not been previously sold, titled and then taken back from the buyer. Proof of repossession shall be provided by the advertiser upon request.

12. Advertising special dealer arrangements such as "manufacturer's outlet," "factory authorized outlet," and "factory wholesale outlet." Any term that gives the buyer the impression the dealer has a special arrangement with the manufacturer compared to similarly situated dealers is misleading and shall be prohibited. The term "factory authorized dealer" shall be an acceptable term for advertising purposes.

13. Advertising the length of a manufactured home as including the towing assembly or hitch.

14. Advertising in any newspaper, periodical or sign which omits the name of the firm from the advertisement.

13 VAC 6-20-280. Records retention.

Advertisers shall maintain a copy of all media advertising for a period of not less than 60 days after the expiration date of the advertisement. For the purposes of this section, the expiration date of the advertisement shall be the last date the advertisement runs or the expiration date of the advertised sale, whichever is later.

13 VAC 6-20-290. Violations; penalties.

A. The first violation of any regulated advertising practice may, at the discretion of the board, be addressed by a written warning to the regulant, by certified mail, advising the regulant of the prohibited conduct and the possible actions by the board if such conduct is continued or repeated.

B. Any violation of regulated advertising practices in this part may be considered as prohibited conduct under 13VAC6-20-170 and subject to the board's actions contained therein.

13 VAC 6-20-300. Conferences or hearings.

Conferences or hearings on any complaint or notice of violation of advertising practices contained in this part shall be conducted according to the procedures established in 13 VAC 6-20-190.

Part V Warranty, Service and Alterations

13 VAC 6-20-310. Warranties; provisions.

A. Each manufacturer located in or outside of the Commonwealth delivering in or shipping into the Commonwealth manufactured homes for sale shall issue with each new home a warranty to the buyer, in writing, setting forth the following terms:

1. That all structural elements; plumbing systems; heating, cooling (if any), and fuel burning systems; electrical systems; and any other components included by the manufacturer are manufactured and installed free from defect.

2. That the manufacturer shall take appropriate corrective action at the site of the manufactured home, except for components which can be removed for service without undue inconvenience to the buyer, in instances of defects which become evident after the date of delivery of the home to the buyer, provided the buyer gives notice of the defects to the manufacturer at the manufacturer's business address.

3. That the manufacturer shall take such actions deemed necessary as ordered by the board under this chapter.

B. Each dealer located in or outside of the Commonwealth selling or delivering manufactured homes to buyers in the Commonwealth shall issue with each manufactured home a warranty to the buyer, in writing, setting forth the following terms:

1. That any modifications or alterations made to the home by the dealer or authorized by the dealer are free from defects. Alterations or modifications made by the dealer, without written permission of the manufacturer, shall relieve the manufacturer of the warranty requirements of subsection A of this section for the item altered or modified and any damage resulting from the alteration or modification.

2. That set-up operations performed by the dealer or by persons under contract to the dealer on the manufactured home are completed in compliance with the applicable Code requirements for the installation of manufactured homes.

3. That during the course of transportation and set-up operations performed by the dealer or by persons under contract to the dealer, any defects which may occur with the manufactured home will be corrected properly.

4. That the dealer shall take appropriate corrective action at the site of the manufactured home, except for components which can be removed for service without undue inconvenience to the buyer, if such defects become evident after the date of delivery of the home to the buyer, provided the buyer gives notice of the defects to the dealer at the dealer's place of business.

5. That the dealer shall take such actions deemed necessary as ordered by the board under this chapter.

C. Any warranties generally offered by suppliers in the ordinary sale of their products to consumers shall be extended to buyers of manufactured homes. The warranty by the manufacturer of the home shall remain in effect notwithstanding the existence of the suppliers' warranty.

D. The regulant's warranty shall be in addition to, and not in detracting of, all other rights and privileges which the buyer may have under any other law or regulation. The regulant shall not require the buyer to waive his rights under this part and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.

13 VAC 6-20-320. Duration of warranties.

All warranties provided by regulants as required by 13 VAC 6-20-310 shall be for a period of not less than 12 months, measured from the date of delivery of the home to the buyer. The date of delivery shall be the date on which all terms or conditions of the sales contract agreed to or required of the regulant have been completed.

13 VAC 6-20-330. Presenting warranty claims.

To invoke a regulant's warranty under 13 VAC 6-20-310, the buyer shall notify the regulant within a reasonable time after discovering the defect and not later than 90 days after the expiration of the stated term of the warranty. The regulant shall make a record of the name and address of each claimant and the date, substance, and disposition of each claim about the defect. The regulant may request that a warranty claim be made in writing; however, the regulant shall record any claim received as noted above and shall not delay service pending receipt of the written claim.

13 VAC 6-20-340. Service agreements; determination of responsible party.

A. If a service agreement exists between or among the manufacturer, the dealer, and the supplier to provide warranty services on a manufactured home, the service agreement shall specify which of the regulants shall be the responsible party for remedying defects reported in the home. All service agreements shall be in writing. No service agreement shall relieve a regulant, determined by the board to be the responsible party for remedying the defect, of the responsibility for performing warranty service; however, any regulant accepting the responsibility to perform the warranty service obligations of other regulants under the service agreement shall be responsible to both the buyer and the other regulant to perform adequate warranty service.

B. If there is no warranty or service agreement between or among the regulants, the board shall have the authority to designate the responsible party for each defect given in the claim. The board may use reports and recommendations from the department staff investigating consumer complaints under the applicable provisions of the Code or may request staff to make a specific on-site inspection to determine the responsible party for remedying the defect.

C. If a warranty claim is made to a regulant that is not the responsible party for remedying the defect, that regulant shall immediately notify the claimant, in writing of that fact, and shall also notify, in writing, the regulant that is the responsible party for the defect, forwarding to the responsible party all available information about the claimant and the substance of the warranty claim.

D. If a defect is the responsibility of more than one regulant, each regulant shall be deemed to be a responsible party for the defect. A responsible party shall not fail to remedy defects because other regulants may also have joint responsibility for the defect or defects; however, nothing in this chapter shall prevent a responsible party from obtaining compensation by way of contribution or subrogation from another responsible party in accordance with any other provision of law or contracts between the regulants.

E. If a regulant corrects a defect under a warranty claim and the board determines that the regulant is not the responsible party, then that regulant shall be entitled to reasonable compensation for the warranty service performed. The compensation shall be from the responsible party for the defect.

F. It shall be a violation of this part for a regulant to coerce or require a nonresponsible party to perform warranty service under this chapter. Any regulant or responsible party may file a complaint to the board if warranty service obligations under this chapter are not being completed or enforced.

13 VAC 6-20-350. Warranty service; time limits; rejection of claim.

A. Any defect which is determined to be an imminent safety hazard as defined in ~~Section 1200.2~~ 13 VAC 5-95-10 of the ~~Industrialized Building and~~ Manufactured Home Safety Regulations to life and health shall be remedied within three days of receipt of the written notice of the warranty claim. Defects which may be considered as imminent safety hazards to life and health include, but are not limited to, any of the following:

1. Inadequate heating in freezing weather.
2. Failure of sanitary facilities.
3. Electrical shock hazards.
4. Leaking gas.
5. Major structural failure.

The board may suspend this three-day time period in the event of widespread defects or damage resulting from adverse weather conditions or other natural disasters.

B. All other defects shall be remedied within 45 days of receipt of the written notice of the warranty claim unless a bona fide reason exists for not remedying the defect within the time period. If the responsible party has a bona fide reason for not meeting the 45-day time period, he shall respond to the claimant in writing, with a copy to the board, explaining the reason or reasons and stating what further action is contemplated regarding the warranty service.

C. Department staff handling consumer complaints under the Code shall also review the complaints for warranty service obligations under this part, and shall make initial determinations of defects and imminent safety hazards to life and health as defined by the Code. Any disagreements between department staff and regulants or responsible parties regarding these determinations shall be resolved by the board. If a regulant or responsible party disputes the determination of an imminent safety hazard to life or health by the staff and asks for a ruling by the board, the three-day time period for remedying the hazard shall not be enforced unless the board agrees to the determination. If the board determines that the defect is an imminent safety hazard, it shall immediately notify the responsible party of the determination. The responsible party shall have three days from receipt of this notice to remedy the hazard.

D. Within the time limits specified in subsections A and B of this section, the responsible party shall either resolve the claim or determine that it is not justified. Whenever a regulant determines that a claim for warranty service is not justified, in whole or in part, he shall immediately notify the claimant in writing that the claim or a part of the claim is rejected. This notice shall explain to the claimant why the claim or specific parts of the claim are rejected and that the claimant is entitled to complain or file an appeal to the board. The notice shall provide the claimant with the complete address of the board.

13 VAC 6-20-360. Records; available to board.

The board or the board's representative shall be authorized to inspect the pertinent service records of a manufacturer, dealer, supplier, or broker relating to a written warranty claim or complaint made to the board regarding that manufacturer, dealer, supplier, or broker. Such inspection shall be allowed by the regulant during reasonable business hours. Upon request by the board, every regulant shall send to the board within 10 days a true copy of any and all documents or records pertinent to the claim for service or complaint.

13 VAC 6-20-370. Alterations; by dealer or by owner.

A. Unless authorized by this chapter or by the manufacturer, a dealer shall not make any alterations or modifications to a manufactured home after shipment from the manufacturer's facility. If a dealer performs an unauthorized alteration or modification in or to a manufactured home, the dealer then shall bear primary warranty responsibility for the altered or modified item or items. If the manufacturer remedies or is required by the board to remedy any warranty claim on the altered or modified item or items, then that manufacturer shall be entitled to recover damages in the amount of his costs, including attorney's fees, from the dealer responsible for the alteration or modification.

B. Unless authorized by the manufacturer, the owner or person or persons working for the owner shall not make alterations or modifications to a manufactured home after shipment from the manufacturer's facility. Any unauthorized alteration or modification made by the owner or person or persons working for the owner shall relieve the manufacturer of the responsibility to remedy any defects caused by such alteration or modification. All manufacturers shall display clearly and conspicuously on the face of their warranty to the buyer a statement explaining that the owner shall be responsible for remedying any defects caused by unauthorized alterations or modifications done by the owner or person or persons working for the owner. The statement shall also include a warning specifying any alterations or modifications which should be performed only by qualified personnel in order to preserve their warranty protection.

13 VAC 6-20-380. Qualifications of personnel performing alterations.

All persons responsible for performing alterations under this part shall be deemed "qualified personnel" only when approved or certified by the manufacturer of the home.

Part VI Miscellaneous Provisions

13 VAC 6-20-390. Set-up requirements; effect on insurance policies.

A. Manufactured homes shall be set-up in accordance with the Code.

B. In the event that a manufactured home is insured against damage caused by windstorm and subsequently sustains windstorm damage of a nature that indicated the home was not set-up in the manner required by this section, the insurer issuing the home owner's insurance policy on the home shall not be relieved from meeting the obligations specified in the insurance policy with respect to such damage on the basis that the manufactured home was not properly set up.

13 VAC 6-20-400. Limitation on damages retained by dealer; disclosure to buyer.

A. If a buyer fails to accept delivery of a manufactured home, the dealer may retain actual damages from the buyer's deposit according to the following terms:

1. If the manufactured home is in the dealer's stock and is not specially ordered from the manufacturer for the buyer, the maximum retention shall be \$500.
2. If the manufactured home is a single section unit and is specially ordered from the manufacturer for the buyer, the maximum retention shall be \$1,000.
3. If the manufactured home is a multi-section home (two or more sections) and is specially ordered from the manufacturer for the buyer, the maximum retention shall be \$5,000.

B. A dealer shall provide a written disclosure to the buyer at the time of the sale of a manufactured home alerting the buyer to the actual damages that may be assessed of the buyer by the dealer, as listed in subsection A of this section, for failure to take delivery of the manufactured home as purchased.

13 VAC 6-20-410. Other remedies not excluded.

Nothing in this chapter, nor any decision by the board, shall limit any right or remedy available to the buyer through common law or under any other statute.

Part VII Transaction Recovery Fund

13 VAC 6-20-420. Recovery fund established; assessments.

A. In accordance with § 36-85.31 of the Code of Virginia, the board shall establish a Manufactured Housing Transaction Recovery Fund. Any manufacturer, dealer, broker or salesperson licensed by the board under this chapter to operate in the Commonwealth of Virginia shall pay an initial assessment fee of the following amount into the fund:

1. Manufacturer -- \$4,000 for each separate manufacturing facility payable in one installment or \$4,400 payable at \$2,200 per year with the second payment due one year after initial licensing.
2. Dealer -- \$500 per retail location.

3. Broker -- \$500 per sales office.

4. Salesperson -- \$50 per individual.

B. After the initial assessments have been paid, the board shall review the balance in the fund. In accordance with §36-85.31 of the Code of Virginia, the minimum balance of the fund shall be \$250,000. If the initial assessments fail to achieve this minimum balance, or if future payments from the fund deplete the fund below this minimum balance, the board shall set and collect reassessment fees to achieve and maintain this minimum balance. Before setting any reassessments, the board shall notify all regulants at least 30 days prior to any meeting to set reassessment fees, advising the regulants of the purpose of the meeting and the regulants' opportunity to provide comments and suggestions prior to and at the meeting. Failure to pay any reassessment fees assessed by the board shall result in suspension of the regulant's license until such time as the regulant pays the reassessment fee.

C. All initial assessments and reassessments collected by the board under this chapter shall be deposited in an interest earning, special fund account by the State Treasurer in accordance with § 36-85.31 of the Code of Virginia. The board shall make appropriations from the fund in accordance with the express purposes set forth in Chapter 4.2 (§§ 36-85.16 et seq.) of Title 36 of the Code of Virginia and this chapter. Interest earned on the deposits of the fund shall accrue to the fund or may be used by the board to provide educational programs about manufactured homes to consumers.

13 VAC 6-20-430. Filing claims; investigations; conference or hearing on claim.

A. Any person who suffers any loss or damage by an act of a regulant that constitutes a violation of this law or this chapter shall have the right to file a claim for recovery from the fund. The department shall provide forms for filing claims. As a minimum, the following information shall be furnished with the claim:

1. The names and addresses of the regulants involved in the claim.

2. The identification of the home including the serial number, HUD label number or numbers, and model designations.

3. A complete explanation of the issues or actions which constitute the basis for the claim, along with copies of pertinent documents.

4. The name, address and telephone number of the claimant and the location of the home if different from the claimant's address.

B. Upon receipt of a claim, the board shall review the claim and may conduct, or cause to be conducted, an on-site inspection of the home. All regulants involved in a claim shall be notified of any on-site inspections by the board or the department under this chapter and shall be requested to have a representative present during the inspection. The person or persons conducting the inspection for the board or the department shall prepare a written report of the findings of the inspection, citing any defects or violations of the Code or this chapter with a reference to the specific section of the Code or regulation which serves as the basis for the

violation, and identifying the regulant responsible for the defect or violation. Copies of this report shall be provided to the regulants, the claimant, and the board.

C. The board shall hold a conference or hearing on a claim for damages. The board, or the department acting on the board's behalf, shall send written notice of the conference or hearing to all involved regulants, stating the purpose of the conference or hearing and the time and place of the conference or hearing. The notice shall be sent to the regulant or regulants at least 15 calendar days prior to the date of the conference or hearing. The notice shall be sent by certified mail to the address of the regulant or regulants, as shown on the license or other record or information in possession of the board. The conference or hearing shall be conducted by the board according to the applicable provisions of the Administrative Process Act and shall be open to the public. The regulant or regulants shall have the right to be heard in person or by counsel, and to provide evidence and witnesses on his behalf.

D. After the conference or hearing, if the board finds that the person has suffered a loss or damages due to the acts of a regulant that constitute a violation of this chapter, the board shall determine the amount of damages to be awarded to the claimant. The amount of damages awarded by the board shall be limited to actual compensatory damages and shall not include attorney's fees for representation before the board. The board shall order the responsible manufacturer, dealer, broker, or salesperson to pay the awarded amount to the claimant. The board's written order shall be sent by certified mail to the regulant responsible for paying the awarded amount. Within 30 days of receipt of the board's decision, the responsible regulant shall pay the awarded amount to the claimant, unless an appeal is pending.

13 VAC 6-20-440. Appeals of the board's decision.

Appeals of the decision of the board shall be to a circuit court with jurisdiction in the Commonwealth. The appeal shall be filed by the regulant within 30 days of the date of the board's order, and shall stay the board's order for payment of the awarded amount. Neither the regulant nor the board shall be required to pay damages to the claimant until such time as the final order of the court is issued. In accordance with § 36-85.35 of the Code of Virginia, the court may award reasonable attorney's fees and court costs to be paid by the recovery fund.

13 VAC 6-20-450. Payment of damages; limitations; conditions.

A. If a regulant has not paid the awarded amount within 30 days as provided in 13 VAC 6-20-430 or filed an appeal to the circuit court as provided in 13 VAC 6-20-440, the board shall, upon request of the claimant pay the awarded amount to the claimant from the recovery fund under the following conditions:

1. The maximum claim of one claimant against the fund because of a single violation by one regulant shall be limited to \$20,000;
2. The fund balance is sufficient to pay the awarded amount;
3. The claimant has assigned the board all rights and claims against the regulant; and

4. The claimant agrees to subrogate to the board all rights of the claimant to the extent of payment.

B. The aggregate amount of claims paid from the fund for violations by any one regulant during any license period shall be as follows:

1. For a manufacturer -- \$75,000.

2. For a dealer -- \$35,000.

3. For a broker -- \$35,000.

4. For a salesperson -- \$25,000.

If the board has reason to believe there may be additional claims against the fund from other transactions by the same regulant, the board may withhold any payments, involving that regulant, from the fund for a period of not more than one year from the date the board approved the original claimant's award. After this one-year period, if the aggregate of claims against the same regulant exceeds the limitations of this section, the aggregate amount shall be prorated by the board among the claimants and paid from the fund in proportion to the amounts of their awards remaining unpaid.

13 VAC 6-20-460. Revocation of license.

Upon payment to a claimant from the fund, the board shall immediately revoke the license of the regulant whose conduct resulted in the payment from the fund. Any regulant whose license is revoked under this section shall not be eligible to apply for a new license or renewal license until he has repaid the fund the full amount of the payments from the fund on his amount, plus interest, calculated at the rate of interest the recovery fund was earning at the time of the payment from the fund.

13 VAC 6-20-470. Other disciplinary action not voided.

The board may take other disciplinary actions against any regulant for any violation of Chapter 4.2 (§§ 36-85.16 et seq.) of Title 36 of the Code of Virginia, or this chapter. Full repayment of the amount paid from the fund for the regulant's actions shall not nullify, modify or prohibit the affect of any disciplinary proceeding by the board against that regulant for any violations.